

Property Licensing

Landlord Forum

16 July 2020

Housekeeping

- **Please put yourself on mute when not speaking.** This will avoid background noise and feedback.
- **The meeting is being recorded.** The recording may be made available online.
- **If you wish to ask a question in person please use the 'raise hand' function.** *(This is on the right of the tool bar in the centre of your screen).* The Chair will then call on you to unmute, switch on your camera and ask your question in person.
- **If you wish to ask a question without using your microphone please use the 'chat' function.** *(This is on the far right of the tool bar in the centre of your screen).* You can type your question there, please note all participants will be able to see the question.

Future Updates

- All Presentations given tonight will be available on the website within the next few days.
- The website will be updated regularly over the next few months – It is advisable to check the website for updates.
- Newsletters will be sent out with any significant updates.

Purpose of briefing

- Additional Licensing was launched 1 April 2020.
- New Selective Licensing scheme – came into force on 1 May 2020
- Impact of Covid -19
- Licensing objectives and fees
- Good news stories
- Accounts

Additional HMO Licensing

- Houses in Multiple Occupation (“HMOs”) that are privately rented and occupied by 3 or more people forming 2 or more households with shared amenities that fall outside of mandatory licensing.
- On line application form in line with the Council’s digital by default strategy.
- Additional Licensing is Borough wide.
- Extension of early bird until 31 October 2020

Mandatory HMO Licensing

- Houses in Multiple Occupation (“HMOs”) that are privately rented and occupied by five or more persons forming two or more households under one or more tenancies.
- All houses, converted flats and some purpose-built flats
- On line application form in line with the Council’s digital by default strategy.
- Mandatory HMO Licensing is Borough wide.



Selective Licensing

- Properties let to single households or no more than two individuals.
- Endelbury and Hatch Lane wards are not subject to Selective Licensing.
- Extension of the early bird until 31 October 2020



Planning permission

- Some complexity in HMO rules – differences in housing, planning and Council Tax definitions
- The Licensing department will continue to take into account planning permission requirements for both HMOs and conversions.
- HMO definition for licensing purposes clear
- Useful FAQ document has been produced and available on the website here

<https://www.walthamforest.gov.uk/sites/default/files/HMO%20FAQs%20June%202020.pdf>



Impact of Covid-19

- Extension of the early bird until the end of October – effectively delaying the start of the scheme.
- Delay in recruitment
- No inspections for three months (apart from high risk) therefore creating a backlog, team now back into BAU.
- Confidence in still meeting our Objectives which is at the heart of everything that we do.

Scheme Objectives

- Targeted audits of 25% homes with a selective licence
- Reduce significant hazards by 350 properties per year
- Take action in relation to unlicensed properties
- Inspect all HMOs before issuing a licence
- Carry out audit checks to confirm compliance with works required at time HMO licence granted
- Carry out 1000 intelligence-led checks of HMOs during life of the scheme. Achieve compliance in 500 HMOs p.a.
- Reduce repeat ASB by 10% over life of scheme
- Tackling homes with poor energy characteristics a priority

Licence fees

Type of Licence	Part 1 element (application & processing)	Part 2 element (enforcement)	Total fee payable [on successful application]
Selective Licence [without discount]	£250	£450	£700
Selective Licence [with either early bird or EPC discount]	£250	£200	£450
Additional HMO licence [without discount]	£500	£500	£1,000
Additional HMO Licence [with either early bird or EPC discount]	£500	£250	£750

Multi-dwelling discount for 2nd, 3rd flat in block in common ownership & control of £100 per flat

Mandatory HMO licence fees – April 2020

	Part 1 element (application & processing)	Part 2 element (enforcement)	Total fee payable [on successful application]
Up to 8 units of accommodation	£750	£750	£1500
9-20 units of accommodation	£1000	£1000	£2000
Over 20 units of accommodation	£2500	£2500	£5000

Good News

- Landlord guide has been produced and will be available on the website in the next few weeks. Will be available in PDF format for you to download or print. Contains useful information in all aspects of being a landlord.
- Tenant guide has also been produced and advises tenants on how to find a property, tenant obligations/landlord obligations and helpful information. Will be available on the website in a few weeks and will be in PDF format to print or download.

Good News

- Sep 19 Council started to receive complaints of ASB from an address in Somerset Road.
- Joint visit was carried out with the landlord, property licensing and the ASB team.
- 8 people in the property, none of whom were on the tenancy. Large amounts of rubbish in the garden.
- Landlord immediately started eviction proceedings and was granted possession Feb 20 to be effective the month after. Due to Covid 19 the landlord was unable to appoint bailiffs.
- During this time complaints continued to be made to the Council.

Good News...cont

- Council applied for a premises closure order under the ASB, crime and policing act 2014
- Granted for a 3 month period 13 May prevents anyone but the named tenant, the landlord and Council officers from entering the property.
- Same day it was granted the Council secured the property and removed all unauthorised occupiers, the named tenant was not present.
- Landlord and neighbours happy with the result.
- Significant evidence must be available to be able to obtain a closure order.

Good News...cont



NEIGHBOURS HAD TO PUT UP WITH THE SIGHT AND SMELL OF RUBBISH ROTTING



THE WASTE HAD STARTED TO ATTRACT PESTS INCLUDING RATS AND FOXES

Accounts

- Licensing schemes cannot be profit making.
- Income is ringfenced and must only be spent on the Administration and Enforcement of Licensing.

Licensing costs 2015-2020		
Employees	£	6,587,735
Other Service Costs	£	2,460,001
Contractors & Consultants	£	1,346,425
Overheads	£	1,635,113
Gross Expenditure	£	12,029,274
Income	£	11,969,901
Net Expenditure	£	59,373

Communication

We will continue to communicate with landlords in a variety of ways including the following:

- Regular Landlord forums
- E-newsletter
- Website – regular updates.
- Landlords must ensure that they keep up to date of legislation changes via the website.

For more information

<https://www.walthamforest.gov.uk/content/property-licensing>

propertylicensing@walthamforest.gov.uk

020 8496 4949

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NRLA News & Update

Richard Blanco

London Representative



Topics covered

- Chancellor's summer statement - *A Plan for Jobs*
- Compulsory five-yearly electrical safety checks
- Update on Gas Safe certificates and Section 21
- 'No DSS' ruled unlawful
- Coronavirus
 - Possession changes and campaign,
 - Guidance on managing rent arrears
 - Coronavirus advice
 - Wider policy impact
- Tenant Fees Act (England) extended to existing tenancies



A Plan for Jobs – stamp duty changes

- Temporary increase in stamp duty exemption threshold in England and Northern Ireland
 - Increases nil rate to £500,000
 - Effective immediately, until 31 March 2021
- The 3% surcharge for additional properties remains, however for properties under £500k landlords will only pay 3% stamp duty in total (as below)

Property or lease premium or transfer value	SDLT rate
Up to £500,000	3%
The next £425,000 (the portion from £500,001 to £925,000)	8%
The next £575,000 (the portion from £925,001 to £1.5 million)	13%
The remaining amount (the portion above £1.5 million)	15%



A Plan for Jobs – energy efficiency grants

- £2 billion ‘Green Homes Grant’ scheme from September 2020
 - Entitles homeowners (incl landlords) to a voucher for two-thirds of the cost of energy efficiency measures, up to £5k.
 - Low income households will qualify for 100% of costs up to £10k.
 - We are seeking clarification about whether there will be restrictions for F and G rate properties and if tenants in the PRS will be eligible for full grants



A Plan for Jobs – other relevant issues



Source:

<https://twitter.com/RishiSunak>

- Job retention bonus of £1000 per employee where employers keep staff on after furlough and staff are still employed in Jan 2021
- Incentives for employers to create jobs for 16-24 year olds, and take on apprentices and trainees
- Additional resource for DWP to provide extra staff to help people into work
- Temp cut to VAT to 5% for tourism services incl accommodation for six months from 15 July



Five-yearly electrical safety checks compulsory from July

- 1 July 2020 for new tenancies granted from 1 June 2020; 1 April 2021 for existing tenancies
- Inspection of electrical installation every five years
- Must give existing tenants copy of report within 28 days and new tenants before tenancy begins
- Penalties of up to £30,000 per breach if landlords fail to comply



Trecarrell case and Section 21 validity



- Court of Appeal ruled Section 21 notices are valid if the original Gas Safe certificate is issued before the notice is served
- This overturns the ruling in the Monty Shooltz case
- There must still be a valid Gas Safe certificate before the tenant moves in, but an admin failure to issue this before move in can now be rectified without affecting a future S21



'No DSS' blanket ban ruled unlawful

- Recent court case found 'No DSS' policy of letting agent was discriminatory
- Judge found the agent was '*unlawfully discriminating on the grounds of sex and disability*' contravening the Equality Act 2010
- Landlords must not have blanket policies which discriminate against benefit claimants
- Landlords should consider each tenant's circumstances on a case-by-case basis



Extension of pause on possession

- Govt has announced that the stay on possession proceedings has been extended for a further two months – until 23 August
- Means that landlords can still issue possession notices, but cannot enforce them
- NRLA sitting on the judicial working group looking at how possession can restart



NRLA campaign asks

- NRLA is calling for:
 - A clear statement from the Govt reiterating that those who can pay their rent should do so
 - Further support for tenants to pay rent through govt-backed loans, increasing LHA to 50th percentile and Universal Credit reforms
 - Govt compensation to landlords who have existing possession orders from the court they can't execute and have lost rent
 - Prioritisation when the courts reopen for ASB, domestic abuse, cases begun before the pause, and rent arrears accrued before lockdown
 - Clear plans to ensure courts process legitimate possession claims more swiftly



Take action: contact your MP



- Write to them or speak to them at a constituency virtual surgery
- Ask them to write on your behalf to the Secretaries of State for Housing and for Justice in support of the NRLA's campaign calls
- Important to give your own experiences and how the changes affect you and your business
- Guide to writing to your MP at:
 - <https://nla.landlords.org.uk/coronavirus-contact-your-mp/>
 - <https://www.rla.org.uk/campaigns/writing-to-your-mp.shtml>



Coronavirus advice for landlords

- Extensive online guidance on the NLA and RLA websites
 - Minimising Health Risks
 - Changes To Possession Rules
 - Financial Support
 - Managing Your Property
- Weekly webinars (Wednesdays)
 - Recordings available on our websites
 - Financial issues, management, possession



Guidance on managing rent arrears



- NRLA together with sector partners has released guidance to support landlords and tenants to manage rent arrears during coronavirus outbreak
- Includes advice on early communication, and how to agree rent deferrals, reductions and suspensions
- Provides support for tenants on applying for benefits and signposts to resources to help budget planning
- Available for free from [our website](#)

Coronavirus – changes to possession

- All new possession notice periods extended to three months until at least end of September 2020
- Govt has confirmed that the courts will be reopening on 24 August
- NRLA sitting on judicial working group looking at how the courts will manage the cases
- We are also engaging with Govt on both pre-action protocol and prioritisation of possession cases



Coronavirus – impact on other policies

Uncertain / delayed?

- Renters Reform Bill
 - Abolition of Section 21
 - Reform of Section 8
 - Lifetime deposits
- Response to Selective Licensing review
- Govt recommends delay to new discretionary licensing schemes

Govt still implementing

- Electrical Safety Regulations
- Grenfell response and remediation of unsafe cladding
- Section 24 changes
- Review of HHSRS
- Some local authorities still implementing new discretionary licensing schemes eg Coventry



Tenant Fees Act – full implementation from 1 June 2020

- Any ASTs, student tenancies or licences to occupy (except holiday lets) signed since 1 June 2019 must comply with the ban.
- For tenancies signed before 1 June 2019, there is a one year transition period.
- Fees can still be charged for these pre-existing tenancies until 31 May 2020.
- Afterwards, even if tenancy agreement includes fees, you will not be able to charge them.



Tenant Fees Act - what payments are permitted?

Rent and utilities	
Rent arrears	3% APR above Bank of England base rate
Holding deposit	1 week's rent held for up to 14 days
Replacement tenant (mid tenancy)	Usually up to £50
Lost keys or security devices	At cost, evidenced by receipts / invoices
Security deposit	5 weeks' rent (6 weeks' if annual rent over £50k)
Surrender of tenancy	Remainder of rent unless new tenant found

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Possession proceedings post Lockdown



Ben Reeve-Lewis

Due process.

- Landlord serves notice.



- Application for possession order



- Granting of possession order.



- Execution of warrant of eviction.



23rd August 2020

- The stay on evictions will be lifted.
- Plans are in place to extend court opening hours to 9am – 5pm instead of 10am – 4pm.
- Plans to open courts at weekends
- Staff procuring suitable buildings to operate as “Nightingale courts” to speed up the backlog.
- Court bailiffs will also be executing warrants again from this date.
- Any notice currently served will still be of three month’s duration

[Click here to reset form](#)

[Click here to print form](#)



Claim form for possession of property

(accelerated procedure)
(assured shorthold tenancy)

In the	
Claim no.	
Fee Account no.	

• Please write clearly using black ink.

• The full names and addresses, including

New N5B form for accelerated claims following service of a s21 only.

postcodes must be completed on the claim form together with the full address of the premises for which possession is sought.



In use since April 2020.

Important changes:-

1. Copies of any and all tenancy agreements have to be attached, not just the current one.

2. Copies of all gas safety certificates have to be attached, not just the current one.

Gas Safety Certificate court of appeal

- **Trecarrel House Ltd v. Rouncefield (2020)**
- **The issue of gas safety certificates needing to be served before a tenant moves in, invalidating s21.**
- **You need to have a GSC in place before the start of the tenancy but it is no longer an irredeemable breach not to have served it on the tenant at the commencement of the tenancy.**
- **But, before serving a s21, you must have given a copy to the tenant.**
- **So if there wasn't a GSC in place at the commencement of the tenancy you cant serve one, so still cant serve s21 and you cant rescue that breach.**
- **But Gas Safety reg 36(3)(c) only requires landlords to retain the GSCs for two years.**

New pre-action protocol

- **Not written at time of this presentation but expected in before 23rd August 2020..**
- **Social landlords already have a rent arrears pre action protocol.**
- **The proposed protocol for private landlords will only be for possession applications on discretionary grounds, so Ground 8, 2 months rent arrears will be unaffected.**

Evicting sub-tenants

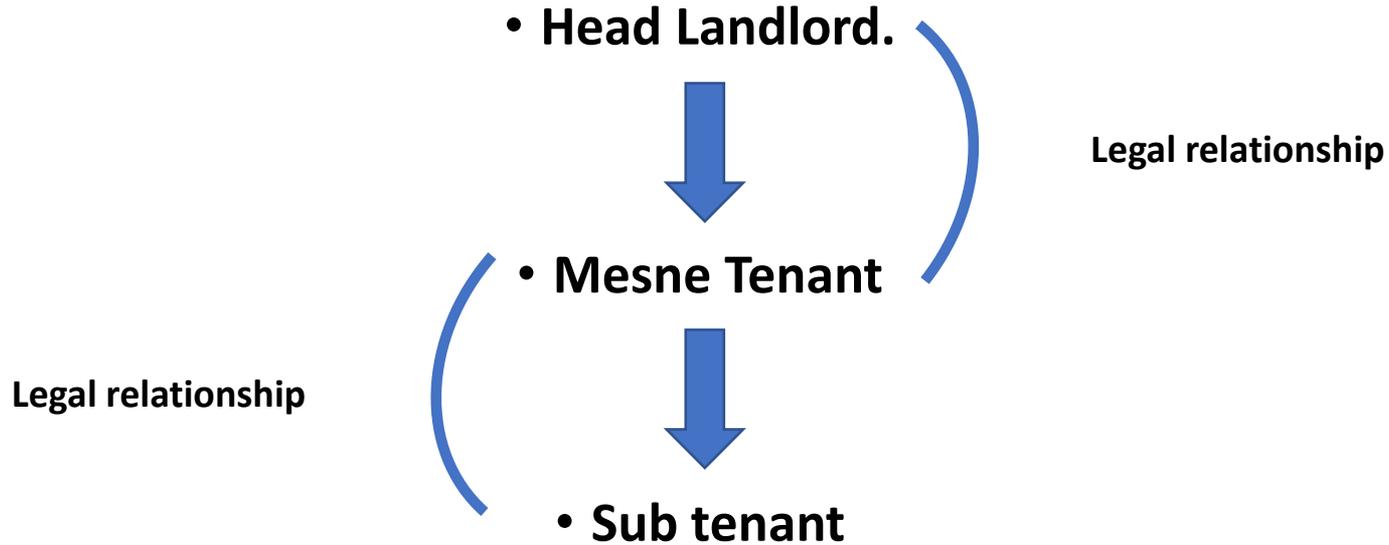
- A sub-tenant has all the tenancy rights of any normal tenant.
- It doesn't matter that a landlord doesn't give permission for their tenant to sub-let.

Barrow v. Kazim (2019)

- **If a sub-let is authorized, the head landlord must serve notice on their tenant and when this expires they must serve a second notice on the sub-tenants before applying for possession.**
- **If the sub-let is not authorized, the head landlord serves notice on their tenant and when possession is granted, it will be against all occupiers.**
- **In the court hearing the sub-tenants are not allowed to address the court unless they are named in the proceedings or have applied to be “Joined in the proceedings”**



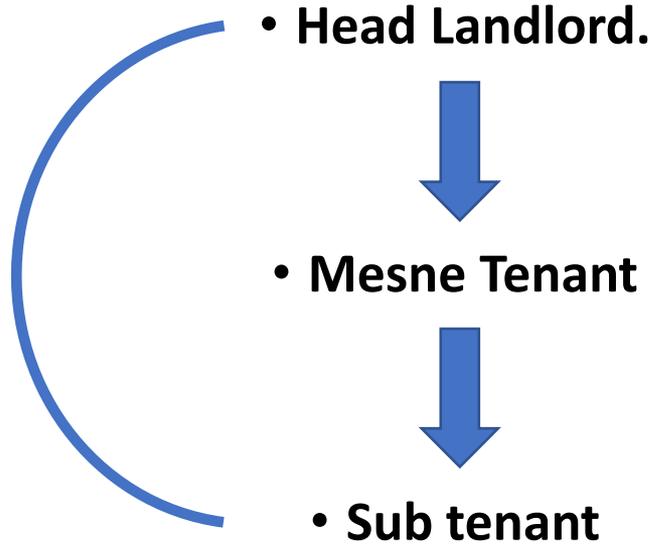
Untangling sub tenancies





Untangling sub tenancies

**No Legal
relationship:
Unauthorised
occupant**



**But head landlord
cant just evict,
they still need a
court order**

Questions



Ben Reeve-Lewis

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